

THE ORDER TO ADOPT THE PROPOSED ACTION

ADOPT EXPRESS TERMS

Article 2.1 Commercial Driver Licenses

Title 13. Sections 25.06 through 25.22.

Employer Testing Program

§25.06. Authority and Definitions.

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations to use third-party testers to conduct the commercial behind-the-wheel driving test under specified conditions. For purposes of these regulations, the following definitions apply:

- (a) Certified Driver. A driver that has been issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02) by his or her employer for the purpose of waiving the department-administered driving test portion of the commercial driver testing process.
- (b) Driving Test. The driving test is a performance test that consists of three components: a pre-trip inspection, skills test, and road test.
- (c) Employee. Employee means a person who performs services for wages or salary under a contract of employment, expressed or implied for an employer. (See Labor Code Section 1132.2.). In addition, a volunteer of an employer who has an established volunteer workforce will be considered an employee, provided the employer has covered the employee under its Workers Compensation Insurance policy, and the employee has coverage under the Employer's liability insurance policy. (Example: Volunteer fire departments.)
- (d) Employer Testing Program. The State of California's third-party commercial driver testing program. California Vehicle Code Section 15250(c) grants the department the authority to authorize third-party testers to conduct the commercial driving test portion of the commercial driver license testing process.
- (e) Employer. A California sole proprietor, partnership, company, corporation, association, government entity or any other entity that meets the enrollment criteria to participate in the Employer Testing Program.
- (f) Governmental Employer. The United States Government or any subdivision, department, court or agency thereof; the state or any subdivision, department, court or agency thereof, including special districts, school districts, the Board of Regents of the University of California; or any city, county, city and county or any agency or subdivision thereof.
- (g) Route Approval. A review by the department of an employer's primary and alternate driving test routes to ensure that each route meets the requirements set forth by the department for use by the Employer Testing Program participants.
- (h) Testing Location. A place of business in California where an employer is authorized by the department to conduct driving tests utilizing the department approved primary and alternate driving test routes.
- (i) Third-Party Tester. An employer with a place of business in California that is authorized by the department to conduct commercial behind-the-wheel driving tests for employees on behalf of the

department. California Vehicle Code Section 15250(c) grants the department authority to authorize third-party testers to conduct the commercial driving test.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; and Section 1132.2, Labor Code.

§25.07. Employer Prerequisites.

(a) The employer requesting participation in the Employer Testing Program must be engaged in an activity that includes the use of vehicles requiring its employees to possess a valid Class A or Class B commercial driver license or a non-commercial firefighters Class A or Class B driver license.

(b) The employer must have a terminal(s) in California where business is conducted, driving tests are conducted, and Employer Testing Program records are kept. Rental of a desk or desk space in a structure that is not owned, leased, or rented by the employer does not constitute a valid place of business for purposes of Employer Testing Program qualifications.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.08. Certificate of Driving Experience Employer Testing Program Enrollment.

(a) The employer requesting participation in the Employer Testing Program must submit:

(1) An original Employer Testing Program Application for Employer Number (DL520ETP, Rev. 8/02), hereinafter referred to as the Application (DL520ETP, Rev. 8/02). The Application (DL520ETP, Rev. 8/02) will serve as the employer's written agreement with the department. The completed Application (DL520ETP, Rev. 8/02) shall include the following:

(A) An indication of the type of Application, whether original or renewal.

(B) Name of employer.

(C) Previous employer number(s), if any.

(D) Mailing address (city, state, and zip code).

(E) Telephone number(s), including area code(s).

(F) Street address (city, state, and zip code).

(G) Number of commercial drivers employed.

(H) Number of commercial vehicles in fleet.

(I) Nature of business and use of vehicles.

(J) License class(es) for which driver testing authority is being requested. Requested authority must be consistent with the nature of the employer's business.

(K) Whether vehicles carry Hazardous Materials.

(L) Street address(es) (city(ies), state and zip code(s)) and telephone number(s), including area code where the primary and alternate driving test routes originate.

(M) The department's route approval numbers (both primary and alternate driving test routes), if using an existing department approved route(s).

(N) Facility name(s), street address(es) (city(ies), state, and zip code(s)) and telephone number(s), including area code where employer's training, testing and employment records are kept.

(O) List of Authorized Representative(s) by name, driver license number, telephone number including area code, address, whether the individual is being added or deleted and date of action.

(P) Administrator's driver license number.

(Q) Administrator's printed name and title.

(R) Administrator's signature under penalty of perjury under the laws of the State of California certifying that the contents of the Application (DL520ETP Rev. 8/02) are true and correct, and that the employer will abide by the provisions of Title 13, California Code of Regulations, Sections 25.06 through 25.22, and Vehicle Code Sections 12804.9(e) and 15250 (c) and (d), governing the Employer Testing Program.

(S) Administrator's office street address (city, state, and zip code).

(T) An indication of the employer's participation in the department's Employer Pull Notice (EPN) program and the EPN number, if applicable.

(2) Documentation of primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03) and the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), which are hereby incorporated by reference, and route map(s) for each driving test route, for department review and approval.

(3) Non-governmental employers shall pay a non-refundable application fee of \$45 (\$15 for each year for a period of three years).

(b) The department shall assign a unique identifying number, hereafter referred to as the employer number, to each employer enrolled in the Employer Testing Program. Exception: Firefighting organizations may band together under one employer number when using the same driving test route(s).

(c) The department shall notify the employer of its assigned employer number and department route approval number(s) within 30 days of the department's receipt of a complete Application (DL520ETP Rev. 8/02) package.

(d) The department shall return the Application (DL520ETP, Rev. 8/02) to the employer within 15 days of the department's receipt of the Application if the Application is incomplete with a cover letter listing the items needing correction. No changes shall be made to the Application (DL 520ETP, Rev. 8/02) by department staff.

(e) No amendment, alteration, or variation of the Application (DL520ETP, Rev. 8/02) shall be valid unless made in writing and signed by the employer's Administrator and approved by the department.

(f) If the Application (DL520ETP, Rev. 8/02) process has not been completed within 12 months of the department's receipt of the Application (DL520ETP, Rev. 8/02), that Application (DL520ETP, Rev. 8/02) becomes void, and a new Application (DL520ETP, Rev. 8/02), and a non-refundable application fee must be submitted to the department.

(g) The department shall initiate a staggered renewal cycle for existing employers, by imposing a one, two, or three-year renewal period on a one-time basis at the time these regulations are adopted. Subsequent renewal periods shall be for the three-year period. The employer must renew its employer number every three years to remain active in the program.

(h) The department shall send the employer a renewal packet no later than 90 days prior to expiration of the employer number, which shall include:

- (1) An Application (DL520ETP, Rev. 8/02) for completion.
- (2) A list of drivers certified in the prior period for verification.
- (3) A request for payment of an application fee (\$15 for each year) from non-government employers.
 - (i) The employer shall submit, no later than 45 days prior to expiration of the employer number, the following to renew its employer number. Failure to meet this time frame and/or to provide the required documents may delay the renewal of the employer number.
- (1) A completed and signed renewal Application (DL520ETP, Rev. 8/02).
- (2) A list of drivers certified in the prior period signed by the Administrator.
- (3) Payment of an application fee (\$15 for each year) from non-government employers.
 - (j) An existing employer shall be required to submit documentation of its primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814 ETP, Rev. 2/03), the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s) for each driving test route, for department review and approval, with its first renewal Application (DL520ETP, Rev. 8/02) after these regulations are adopted.
 - (k) The department shall return the Application (DL520ETP, Rev. 8/02) within 15 days of the department's receipt if the renewal Application (DL520ETP, Rev. 8/02) is incomplete with a cover letter listing the items needing correction. No changes shall be made to the Application (DL520ETP, Rev. 8/02) by department staff.
 - (l) The department shall approve the application and notify the employer of its renewed employer number and any new department route approval numbers, within 30 days of receipt of a complete Application (DL520ETP, Rev. 8/02) package.
 - (m) At the discretion of the department, the employer number expiration date may be extended if all application requirements have been met.
 - (n) If the employer number is expired, cancelled, suspended, or revoked for more than 12 months, the employer shall submit an original Application (DL520ETP, Rev. 8/02) with the appropriate documents and application fees.

Note: Authority cited: Section ~~3400~~ 1651, Vehicle Code. Reference: Sections ~~12804~~ 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.09. Application Changes.

- (a) The following changes must be reported to the department within 10 days of occurrence in writing on company letterhead, or by submitting a completed and signed Application (DL520ETP, Rev. 8/02):
 - (1) Change of address.
 - (2) Change of Authorized Representative.
 - (3) Change in class of license for which driver testing authority is requested.
- (b) A change of Administrator or change of employer name must be reported to the department within 10 days of occurrence by submitting an Application (DL520ETP, Rev. 8/02).

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.10. Additional Employer Requirements Driving Test Routes.

- (a) Upon adoption of these regulations, every employer who applies for a new and/or renewed employer number must provide documentation of primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s). Upon the department's approval, each route will be given a department route approval number.
- (b) The department route approval number assigned to the route used for the driving test shall be required on the driving test score sheets and on the Certificate of Driving Skill (DL170ETP, Rev. 11/02).
- (c) The department may approve a waiver of missing route elements upon written request by the employer on the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02) prior to use of the route.
- (d) Any changes to an approved route must be reported by the employer on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), along with the route map, and approved by the department prior to use. A new route number may be issued to changed routes.
- (e) Corrections to any route found to be deficient by the Federal Motor Carrier Safety Administration (FMCSA), or its representative, and/or the department, or its representative, must be reported by the employer on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions DL814ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map; and approved by the department before the new/revised route may be used.

Note: Authority cited: Section ~~3400~~ 1651, Vehicle Code. Reference: Sections ~~12804, 12804.1, 12804.3 and 13950-14112~~ 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.11. Implementation Quality Assurance Oversight.

- (a) The employer shall establish and maintain a quality assurance program that:
 - (1) Ensures compliance with all provisions and terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through 25.22.
 - (2) Ensures adequate internal controls are established for program responsibilities, and appropriate separation of duties are in place for program participants, in accordance with Section 25.19 of these regulations.
 - (3) Authorizes the Federal Motor Carrier Safety Administration, or its representative, and the department to conduct random examinations, inspections and audits without prior notice.
 - (4) Permits the department, or its representative to conduct on-site inspections at least annually.
 - (5) Permits the department to retest certified drivers without cause to compare pass/fail results.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections ~~12804~~ 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.12. Driver Training Program.

- (a) Every employer shall establish a driver training program for its commercial drivers.
- (b) Prior to testing employees for certification purposes under the Employer Testing Program, the employer must provide the employee commercial driver training that includes the following critical elements:
 - (1) Conducting a vehicle pre-trip safety inspection.
 - (2) Placing the vehicle or a combination of vehicles in operation.
 - (3) Using vehicle controls and emergency equipment.
 - (4) Operating the vehicle in traffic on public roads, and while passing other vehicles.
 - (5) Turning the vehicle.
 - (6) Braking and slowing the vehicle by means other than braking.
 - (7) Backing and parking the vehicle.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.13. Driving Test Program.

- (a) The employer must establish a driving test program for certification purposes under the Employer Testing Program, which includes the utilization of the Commercial Driver License Driving Performance Evaluation criteria established by the department, in all driving tests used for certification purposes.
- (b) All driving tests must be conducted by an Examiner who has been authorized by the department to conduct driving tests for the Employer Testing Program.
- (c) All driving tests must be conducted on an employer's department approved route, with no deviations from the approved route.
- (d) If the employer utilizes a commercial vehicle with special equipment plates during the driving test, a trip permit is required at the time of the test.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.14. Certificate of Driving Skill (DL170ETP).

- (a) Upon successful completion of the driving test, a Certificate of Driving Skill (DL170ETP, Rev. 11/02) shall be completed and signed by the Authorized Representative, Examiner, and driver under penalty of perjury under the laws of the State of California.
- (b) When the Certificate of Driving Skill (DL170ETP, Rev. 11/02) is presented to the department, the department may waive the driving test for a Class A or B application when the driver has first qualified for a Class C driver license, has met the other examination requirements for the license for which the driver is applying as specified in Vehicle Code Section 12804.9, and the department verifies that the Certificate of Driving Skill (DL170ETP Rev. 11/02) was issued under the provisions of the Employer Testing Program by an authorized employer.
- (c) A Certificate of Driving Skill (DL170 ETP, Rev. 11/02) shall include the following:

- (1) Driver's name.
- (2) Driver's driver license number.
- (3) Driver's address, including city, state and zip code.
- (4) Driver's home telephone number, including area code.
- (5) Driver's work telephone number, including area code.
- (6) Driver's date of employment with employer.
- (7) Driver's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.
- (8) Date driver passed the driving test.
- (9) Type of vehicle(s), and vehicle features, used in the driving test.
- (10) Department route approval number.
- (11) Vehicle license plate number(s).
- (12) Trailer identification plate number(s), if applicable.
- (13) Examiner's printed name.
- (14) Examiner's California commercial driver license number.
- (15) Examiner's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.
- (16) Authorized Representative's printed name.
- (17) Authorized Representative's driver license number.
- (18) Authorized Representative's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.
- (19) Authorized Representative's telephone number including area code and extension.
- (20) Employer name.
- (21) Employer address, including city, state, and zip code.
- (22) Employer number.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12800, 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.15. Record-Keeping Program.

- (a) The employer shall keep records of Employer Testing Program related information on training and testing provided to its certified employee drivers. The employer's records shall include the following:
 - (1) The employee's full name, address, and driver license number.
 - (2) The type of instruction the driver was given during training.
 - (3) The date(s) instruction was given.
 - (4) The subjects covered.

- (5) The total hours of instruction.
- (6) The training instructor's full name and address.
- (7) A copy of the instructor's contract with the employer, if applicable.
- (8) The results of any driving test conducted in conjunction with the training.
- (9) The driving test Examiner's name and driver license number.
- (10) Examiner's written contract with the employer.
- (11) A copy of the trip permit for any commercial vehicle with special equipment plates used in the driving test, valid for the date(s) of the test.
- (12) All pass and fail driving test score sheets ETP CDL Pre-Trip Inspection Evaluation Score Sheet/ETP CDL Driving Performance Evaluation Score Sheet (DL65ETP, Rev. 4/03), which is hereby incorporated by reference, used for each employee issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02).
- (13) A copy of each Certificate of Driving Skill (DL170ETP, Rev. 11/02) issued.
- (14) Documentation of the department approved primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03), the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s) for each driving test route.
- (b) The employer must keep training records, driving test score sheets, employment records, and all other Employer Testing Program related records for the three most recent years of the employer's participation in the Employer Testing Program and for a minimum of three years after the employer number becomes invalid (i.e., expired, cancelled, revoked, or suspended), during each driver's three most recent years of employment, and three years after the driver is released from employment.
- (c) The employer shall make available all Employer Testing Program related records pertaining to driver training, testing, and employment, for monitoring by the Federal Motor Carrier Safety Administration, or its representatives, and the department during normal business hours at the record-keeping location identified on the employer's Application (DL520ETP, Rev. 8/02).
- (d) At the department's request, the employer shall make records available which verify that:
 - (1) The Administrator and Authorized Representative are employees at the time of program activity.
 - (2) The drivers issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02) are its employees at the time of driver training, testing, and certification.
 - (3) The Examiner is under written contract with the employer at the time of the driving test.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.16. Sample Testing of Certified Drivers.

- (a) At the discretion of the department, the employer shall permit the department to test a sample of its drivers tested and certified by the employer, for the purposes of comparing pass/fail results between the employer's Examiner and the department's examiners.
- (b) The selection of drivers to be tested shall be determined by the department.

(c) The employer shall notify each certified driver of the possibility of being required to pass a department-administered test at the department's discretion.

(d) The department shall provide written notice to the employer and the driver when the driver is selected for the department-administered test.

(e) The employer shall be held responsible for ensuring that the driver is available for a test at the department within 30 days of the department's notice for a department-administered test unless the driver is no longer employed by the employer. The employer must submit a copy of the driver's drive test score sheets to the department within 30 days of the written notice of the selection. If the driver is no longer employed by the employer, the employer shall notify the department within 10 days of receipt of the department's notice of the selection for the department-administered test.

(f) The department shall invalidate the Certificate of Driving Skill (DL170ETP, Rev. 11/02) if the driver does not return to the department for the department-administered test, which shall result in the driver's license being downgraded to the previous class that the driver possessed before certification.

(g) The department will conduct an investigation of any driver who fails the department-administered test and may require a re-examination of the driver to retain the class of license issued through the Certificate of Driving Skill (DL170ETP, Rev. 11/02).

(h) If the driver fails the department-administered re-examination, the department shall downgrade the license to the previous class that the driver possessed before certification.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 13800, 13801 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.17. Cancellations/Reinstatements.

(a) An employer with an active employer number may at any time after issuance voluntarily cancel its employer number by submitting to the department an Employer Testing Program Voluntary Cancellation Request of Employer Number (DL520CETP, Rev. 8/03); or a written request to the department on employer letterhead with the following information:

(1) Employer name.

(2) Mailing address, city, state and zip code.

(3) Terminal physical address, city, state, and zip code.

(4) Telephone number, including area code.

(5) Employer number.

(6) Reason for cancellation.

(7) Effective date of cancellation.

(8) Date of request.

(9) Administrator's printed name and signature.

(b) An employer who has been granted a voluntary cancellation of its employer number and wishes to reactivate its employer number may do so, as long as the prior term of the employer number has not expired. An employer seeking to reactivate an employer number shall submit an Employer Testing Program Request for Reactivation Employer Number (DL817ETP, Rev. 7/02), which is hereby incorporated by reference, to the department. If the employer number expires within 60 days of the date

of Request for Reactivation, the employer must submit a renewal Application (DL520ETP, Rev. 8/02), the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), the route map, and payment of a \$45 non-refundable application fee (\$15 for each year for a three year period) for non-governmental employers.

(c) The department may cancel an employer number if the employer number was issued in error, by giving the employer at least 15 days prior written notice of such cancellation. Whenever an employer number is cancelled by the department, it shall be without prejudice.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.18. Sanctions/Reinstatements.

(a) The department reserves the right to take prompt and appropriate remedial action against the employer, examiners, and/or its certified drivers in the event that they:

(1) Fail to comply with State and/or federal standards for commercial driver license testing in the federal Code of Regulations, Title 49, Part 383, Subpart E, G and H;

(2) Fail to comply with the terms of the Employer Testing Program provisions in the California Code of Regulations, Title 13, Sections 25.06 through 25.22, and California Vehicle Code Sections 12804.9(e) and 15250 (c) and (d);

(3) Commit a serious offense that affects public safety; or

(4) Commit fraud or other criminal activity related to participation in the Employer Testing Program.

(b) The department will provide a 15-day written notice to the employer before suspending or revoking the employer number. However, the department shall immediately suspend or revoke the employer number if an employer is engaging in practices in such a manner that immediate suspension or revocation is required for the safety of persons on the highway. In reaching a decision on a disciplinary action, the Director of Motor Vehicles or his or her designee shall consider the guidelines entitled "Employer Testing Program Guidelines for Sanctions" (9/3/02, which are hereby incorporated by reference, and any and all other sanctions provided by relevant statutes and regulations. Deviation from these guidelines is appropriate where the Director or his or her designee, in his or her sole discretion, determines that the facts of the particular case warrant such a deviation, for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

(1) A warning letter may be sent to an employer for minor violations.

(2) A first offense of less severity may be a minimum of 30-days suspension.

(3) A second offense of the same conduct may be a revocation for not less than 12 months.

(4) A serious offense that affects public safety, fraud, and non-compliance with required federal regulations/state statutes, may result in a revocation. A revocation shall be for a period of not less than 12 months.

(c) In the event the department suspends the employer number, the employer will be prohibited from conducting training, testing, and/or driver certification until verification is made that appropriate action has been taken to correct deficiencies causing the suspension, and the department lifts the suspension.

(d) Any action to appeal or review any order of the department canceling, suspending, or revoking an employer number shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.

(e) An employer who has been suspended may submit a Employer Testing Program Request for Reinstatement Employer Number (DL813ETP, NEW 11/01), which is hereby incorporated by reference, after the period of suspension has ended. The department shall verify that the employer has corrected the deficiencies prior to reinstatement.

(f) An employer that has had its employer number revoked may submit an original Application, (DL520ETP, Rev. 8/02) with proof of correction of the deficiencies which precipitated the revocation, documentation of primary and alternate driving test routes pursuant to subdivision (a)(2) of Section 25.08 of these regulations, and payment of a non-refundable \$45 Application fee (\$15 per year for three years) for non-governmental employers.

(g) The department shall provide a 15-day written notice to the employer and the Examiner before the department discontinues the Examiner's eligibility to conduct driving tests when it has been determined that driving tests were not conducted pursuant to Commercial Driver License Driving Performance Evaluation requirements; the Examiner has an action taken against his or her commercial driver license that disqualifies him or her to act as an Examiner (the driver license is suspended, revoked, or cancelled, or the driver is on probation for negligent operation of a motor vehicle); or the Examiner is not available to participate in the monitoring of Employer Testing Program activities.

(h) The Examiner must meet the provisions of subdivision (a) of Section 25.22 of these regulations prior to being reinstated after discontinuation of eligibility to act as an examiner under subsection (g). An Employer Testing Program Request for Reinstatement – Examiner (DL810ETP, NEW 1/02), which is hereby incorporated by reference, and a \$55 training fee shall be submitted to the department to attend the training. A new Certificate of Training will be issued upon successful class completion.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; Sections 11340.5 and 11425.50(e), Government Code.

§25.19. Employer Roles and Responsibilities.

(a) The employer shall designate an Administrator, and shall designate one or more Authorized Representative(s) and one or more Examiner(s).

(1) The Administrator and Authorized Representative may be one and the same person under the same employer number.

(2) The Administrator may not act as an Examiner under the same employer number.

(3) The Authorized Representative may be an Examiner under the same employer number, but cannot assume or sign for both responsibilities on the same Certificate of Driving Skill (DL170ETP, Rev. 11/02).

(b) The employer must ensure that all drivers are provided commercial driver training pursuant to subdivision (b) of Section 25.12 of these regulations prior to certification.

(c) The employer must enroll each commercial driver under its Employer Pull Notice number after issuance of the Certificate of Driving Skill (DL170ETP, Rev. 11/02), and during the driver's actual term of employment.

(d) The employer must enroll each Examiner under its Employer Pull Notice number during the employer and Examiner's contract period.

(e) When the employer receives a pull notice printout that reflects that an action has been taken against the Examiner's California commercial driver license that would disqualify the Examiner from conducting tests for certification purposes under subdivisions (a)(2) and (a)(3) of Section 25.22 of these regulations, the employer must immediately discontinue the Examiner's testing authority. The employer must notify the department of this disqualification within 10 days of receipt of the pull notice printout.

(f) Upon adoption of these regulations, prior to allowing an Examiner to conduct a commercial driving test, the employer must:

(1) Ensure the Examiner is eligible under these regulations to administer driving tests for the specified class of license.

(2) Enter into a written contract with all new examiners at the time of appointment, and with existing examiners at the time of the employer's first renewal.

(g) The employer's contract with the Examiner hereinafter referred to as the "Examiner's contract" must contain, at a minimum, the following provisions. The Examiner must:

(1) Have held a valid commercial driver license for at least three consecutive years with the appropriate classification and endorsement for new and reinstated examiners.

(2) Currently hold a valid California commercial driver license with the appropriate classification and endorsements for the requested testing authority prior to being approved to attend training.

(3) Have attended and passed examiner training conducted by the department.

(4) Allow the employer to enroll him/her under the employer's Employer Pull Notice number.

(5) Verify that the driver has acquired an instruction permit from the department prior to testing.

(6) Certify that the driver successfully completed the required commercial driving test (i.e., pre-trip inspection, skills test, and road test).

(7) Certify that the correct type of commercial vehicle(s) was used for the driving test.

(8) Provide the employer with the original score sheets used during the driving test of drivers.

(9) Be available, between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate in the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for a period of one year after contract termination.

(10) Not conduct commercial driving tests if his/her California commercial driver license is not valid or is on probation for negligent operation of a motor vehicle.

(11) Not act as an Examiner for his/her own relative, supervisor, or for himself/herself.

(12) Not sign a Certificate of Driving Skill (DL170ETP, Rev. 11/02) for his/her own relative, supervisor, or himself/herself.

(13) Not knowingly sign a false or incorrect Certificate of Driving Skill (DL170ETP, Rev. 11/02).

(h) Prior to the issuance of a Certificate of Driving Skill (DL170ETP, Rev. 11/02), the employer must ensure that the driver was:

(1) Employed by the employer at the time of training.

(2) Trained prior to taking the driving test.

- (3) Employed by the employer at the time the driving test is given.
- (4) Employed by the employer at the time the Certificate of Driving Skill (DL170ETP, Rev. 11/02) was approved by the Authorized Representative.
- (5) Required by law to hold a commercial license to operate commercial vehicles in the course of employment with this employer.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.20. Administrator Roles and Responsibilities.

- (a) The Administrator must be an employee of the employer, and must have sufficient knowledge of the provisions of the California Code of Regulations, Title 13, Sections 25.06 through 25.22, to oversee the program and serve as the employer's liaison with the department.
- (b) The Administrator must sign the Application (DL520ETP, Rev. 8/02), Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/03) and the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02) if requesting a route exemption.
- (c) The Administrator is responsible for ensuring compliance with all provisions and terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through 25.22.
- (d) The Administrator must ensure that the Authorized Representatives, Examiners, and all drivers abide by the terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through 25.22, in the performance of their roles and responsibilities.
- (e) The Administrator must ensure that the driving test used for certification purposes meets the department's Commercial Driver License Driving Performance Evaluation standards.
- (f) The Administrator must ensure that the employer continues to meet the qualifying criteria for an employer number pursuant to Section 25.07 of these regulations.
- (g) The Administrator must ensure that any deficiencies found in the employer's program are corrected prior to the employer resuming Employer Testing Program training, testing, and driver certification.
- (h) The Administrator must provide proper training, testing, and employment records and other required documentation when requested for inspection and verification by the Federal Motor Carrier Safety Administration, or its representative, and the department or its representative.
- (i) The Administrator must not allow a Certificate of Driving Skill (DL170ETP, Rev. 11/02) to be issued when the employer no longer qualifies for participation in the program.
- (j) The Administrator must ensure the Examiner has successfully passed the department's Examiner training and has the appropriate valid California commercial driver license for the type of vehicle used for certification purposes, prior to the employer's contract with the Examiner.
- (k) The Administrator must not allow an Examiner to conduct a driving test when the Examiner is no longer authorized or qualified to do so.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.21. Authorized Representative Roles and Responsibilities.

- (a) The Authorized Representative must be an employee of the employer.
- (b) The Authorized Representative shall be responsible for ensuring that the Certificate of Driving Skill (DL170ETP, Rev. 11/02) is accurate and complete before signing.
- (c) The Authorized Representative must verify that the Examiner conducting the commercial driving test has a current contract with the employer, and has a valid commercial driver license with the appropriate class and endorsement, for the commercial driving test conducted at the time of the driving test.
- (d) The Authorized Representative must verify that the driver being certified has received specified commercial driver training, and is an employee of the employer at the time of the training.
- (e) The Authorized Representative must verify that the driver being tested for certification purposes is an employee of the employer at the time of the driving test.
- (f) The Authorized Representative must verify that driver being certified under the employer's employer number is an employee of the employer at the time of certification.
- (g) The Authorized Representative must ensure the required test is given to the driver using a department approved route.
- (h) The Authorized Representative must not act or sign as the Examiner on the same Certificate of Driving Skill (DL170ETP, Rev. 11/02).
- (i) The Authorized Representative must not act as an Authorized Representative for his/her own relative, supervisor, or for himself or herself.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

§25.22. Examiner Roles and Responsibilities.

- (a) Upon adoption of these regulations, an Examiner is not authorized to conduct a commercial driving test for his/her employer until he or she does all of the following:
 - (1) For new and reinstated examiners, shall submit an Employer Testing Program Examiner Application (DL811ETP, Rev. 9/02), which is hereby incorporated by reference, or Employer Testing Program Request for Reinstatement-Examiner (DL810ETP, New 1/02), whichever is applicable, to the department. The department shall notify the Examiner applicant of their qualification to be enrolled in the department-sponsored Examiner Training class within 30 days of a complete Application. The department shall notify the examiner applicant within 30 days if the examiner fails to meet program requirements as stated in 25.22(a)(2)(6) to be an examiner. A letter will be sent to the applicant explaining the reason for the denial. If the Application is incomplete, a cover letter will be sent to the applicant within 15 days listing the items needing correction.
 - (2) For new and reinstated examiners, has held a valid commercial driver license for at least three years, with the appropriate class and endorsements.

- (3) Currently holds a valid California commercial driver license with appropriate class and endorsements for the type of license for which the Examiner is requesting testing authority. Also, the Commercial Driver License must be consistent with the type required to drive the test vehicle.
- (4) Has no current actions against his/her California commercial driver license that would disqualify him/her to act as an Examiner; i.e., suspended, revoked, cancelled, or on probation for negligent operation of a motor vehicle.
- (5) Pays a \$55 examiner training fee.
- (6) Attends and passes a department-sponsored examiner training class to establish his/her eligibility to act as an Examiner and receives a valid Certificate of Training.
- (A) If the Examiner does not pass the training course, the training fee is non-refundable.
- (B) If the Examiner does not pass the training course and applies to attend the training course again, an additional \$55 training fee shall be paid.
- (C) If the Examiner does not attend the training class within one year of the department receiving the Employer Testing Program Examiner Application (DL811ETP, Rev. 9/02), the Examiner must submit a new Employer Testing Program Examiner Application (DL811ETP, Rev. 9/02) and pay a \$55 training fee to enroll in the department-sponsored examiner training course. Prior training fees paid are not refundable or transferable.
- (7) The Examiner must be under written contract with the employer(s) at the time he/she conducts the driving test, as required in section 25.19(f)(2) of these regulations.
- (b) The Examiner shall submit a written request to the department when the Examiner seeks authority to test drivers on vehicles that require a class of license or endorsement for which the Examiner is not authorized. The department shall verify that the Examiner has held a California Commercial Driver License for three years of the appropriate class and endorsements for type of license for which the Examiner is requesting testing authority, prior to approval of the request.
- (c) The Examiner shall verify that the driver has obtained an instruction permit from the department appropriate for the test vehicle prior to testing.
- (d) The Examiner shall conduct all driving tests for certification purposes using the Commercial Driver License Driving Performance Evaluation criteria established by the department.
- (e) The Examiner shall verify that the driver is given and successfully passes a complete commercial driving test including the pre-trip inspection, skills, and road tests.
- (f) The Examiner shall verify that the correct type of commercial vehicle is used for the driving test.
- (g) An Examiner shall not act as the Authorized Representative for the same driving test that he/she conducted.
- (h) The Examiner shall complete and sign the Certificate of Driving Skill (DL170ETP, Rev. 11/02) as the Examiner.
- (i) An Examiner may work for more than one employer concurrently, as long as he/she is under written contract with each employer.
- (j) The Examiner must allow each employer to enroll him/her in the Employer's Pull Notice program during the contract period.
- (k) The Examiner shall maintain a valid medical card and ensure that a valid Medical Examination Report (DL51, Rev. 6/02), described in Section 110.04(b) of Title 13 of the California Code of

Regulations, is on file with the department. An Examiner possessing a noncommercial firefighter license Class A or B must submit a Health Questionnaire (DL546, Rev. 4/2000), described in Sections 28.22 and 28.23 of Title 13 of the California Code of Regulations, to the department.

(l) Upon the department's request, the Examiner shall be available between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate during the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for one year after termination of the contract.

(m) The Examiner must update testing skills as needed in response to statutory and program changes. The department shall notify Examiners of statutory and program changes, and may require additional department-sponsored training to maintain eligibility.

Note: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.